

### **Remarks**

The final Office Action dated November 30, 2007 has been carefully considered. Claims 1, 13-15, 18, 31, 54, 66, and 70 have been amended without new matter being added. Favorable reconsideration is respectfully requested.

### ***Rejections Under 35 U.S.C. 103***

In paragraph 2 of the Office Action, claims 1-37 and 54-70 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Iguchi et al. US 5,811,531.

The Examiner states that there is no showing that the claimed product itself would be unexpectedly different due to any claimed product feature thereof. It has been previously shown in Comparative Example 1 that the post crosslinked superabsorber polymer includes at least one partially neutralized, uncrosslinked, carboxyl-containing polysaccharide that is not preswelled and dried has a AAP<sub>0.7</sub> of 10.9g/g. Hence it has been shown that the claimed product has a property that is different from the same property of the Comparative Example 1, and this difference is due to the fact that the partially neutralized, uncrosslinked, carboxyl-containing polysaccharide has been preswelled and dried. Iguchi et al. does not disclose or suggest at least one partially neutralized, uncrosslinked, carboxyl-containing polysaccharide that is preswelled and subsequently dried. Since Iguchi et al. fails to disclose each and every element of the present claims, the rejection of claims 1-37 and 54-70 under 35 U.S.C. 102(b) as anticipated by Iguchi et al. is inappropriate and should be withdrawn.

As to the rejection under 35 U.S.C. 103(a) as obvious over Iguchi et al., the Examiner states in paragraph 3 of the Office Action that “[i]n the event any differences can be shown for the product of the product-by-process claims 1-37 and 54-70, as opposed to the product taught by Bruno ‘239[sic], such differences would have been obvious to one of ordinary skill in the art at the time the invention was made as a routine modification of the product in the absence of a showing of unexpected results; see also *In re Thorpe*, 227 USPQ 964 (Fed. Cir. 1985).”

*In re Thorpe* is directed to an examiner's rejection of "product-by-process" claims absent proof by applicant that prior art products do not necessarily or inherently possess characteristics of the claimed product. Unlike the fact situation in *In re Thorpe*, it is asserted that the present product-by-process claims are different than the product of the prior art reference Iguchi et al. and the applicants have shown that prior art products do not include the characteristics of the claimed product. Since Iguchi et al. fails to disclose each and every element of the present claims, the rejection of claims 1-37 and 54-70 under 35 U.S.C. 103(a) as obvious over Iguchi et al. is inappropriate and should be withdrawn.

### ***Conclusion***

In light of the foregoing remarks and amendments to the claims, Applicants believe that the present application is now in condition for allowance, and such action is respectfully requested. If any issues remain unresolved, the Examiner is invited to telephone Applicants' counsel at the number provided below.

Respectfully submitted,

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